



## Order under Section 69 Residential Tenancies Act, 2006

**Citation:** I. Essajee v Emilie Poirier-dumas, 2023 ONLTB 44434

**Date:** 2023-06-19

**File Number:** LTB-L-031112-22

**In the matter of:** 27 BIXBY CRES  
HAMILTON ON L8T4X2

**Between:** I. Essajee Landlord

**And**

Emilie Poirier-Dumas Tenant

I. Essajee (the 'Landlord') applied for an order to terminate the tenancy and evict Emilie Poirier-Dumas (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on June 8, 2023. The Landlord and the Tenant

**Determinations:**

1. The Landlord served the Tenant with a valid Notice to End Tenancy Early for Non-payment of Rent (N4 Notice). The Tenant did not void the notice by paying the amount of rent arrears owing by the termination date in the N4 Notice or before the date the application was filed.
2. As of the hearing date, the Tenant was still in possession of the rental unit.
3. The lawful rent is \$1,876.40. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$61.69. This amount is calculated as follows: \$1,876.40 x 12, divided by 365 days.
5. The Tenant has paid \$20,158.42 to the Landlord since the application was filed.
6. The rent arrears owing to June 30, 2023, are \$5,745.66.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. The Landlord collected a rent deposit of \$1,740.00 from the Tenant and this deposit is still being held by the Landlord. The rent deposit can only be applied to the last rental period of the tenancy if the tenancy is terminated.

*Section 83 Considerations*

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9. The Tenant does dispute the amount of rent arrears. The issue before the Board is whether it is appropriate to grant relief from eviction pursuant to s.83 of the *Residential Tenancies Act 2006*, (the 'Act')
10. According to s. 83 of the Act when the Board hears an application for an order evicting a tenant, the Board must consider whether there are any circumstances that support granting relief from eviction.
11. The Tenant proposed to pay \$2000.00 immediately and \$500.00 per month toward the rent arrears. The Landlord does not believe the Tenant will be able to comply with the requested payment plan.
12. I find that it would not be unfair to grant the Tenant's request. While I share some of Landlord's concerns, The Tenant's payment plan is realistic and not unduly lengthy.

**It is ordered that:**

1. The Tenant shall pay to the Landlord \$5,745.66 which represents the arrears of rent costs for the period ending June 30, 2023.
2. The Landlord's application for eviction is denied on the condition Tenant shall pay to the Landlord the amount set out in paragraph 1 in accordance with the following schedule:

| Date Payment Due  | Payment Amount |
|---|----------------|
| July 15, 2023   | \$2000.00      |
| The 15 <sup>th</sup> day of each month beginning August 15, 2023, and ending March 15, 2024 | \$500.00       |
| April 15, 2024  | \$245.66       |

3. The Tenant shall also pay to the Landlord new rent on time and in full as it comes due and owing for the period July 1, 2023, to April 30, 2024, or until the arrears are paid in full, whichever date is earliest.
4. If the Tenant fails to make any one of the payments in accordance with this order, the outstanding balance of any arrears of rent and costs to be paid by the Tenant to the Landlord pursuant to paragraph 1 of this order shall become immediately due and owing and the Landlord may, without notice to the Tenant, apply to the LTB within 30 days of the Tenant's breach pursuant to section 78 of the Act for an order terminating the tenancy and evicting the Tenant and requiring that the Tenant pay any new arrears, NSF fees and related charges that became owing after June 30, 2023.

**June 19, 2023**

**Date Issued**

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**Bryan Delorenzi**

Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor  
Toronto ON M7A 2G6

If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.

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